



Amal Fathy



Ibrahim Metwally



Mohamed el-Baqer



Haitham Mohamedeen



Mahienour al-Massry



EuroMed Rights
EuroMed Droits
الأورومتوسطية للحقوق

The chilling effect

A study on the use of pre-trial detention as a tool of repression against human rights defenders and activists in Egypt

The chilling effect

A study on the use of pre-trial detention as a tool of repression
against human rights defenders and activists in Egypt



EuroMed Rights

الأورومتوسطية للحقوق

EuroMed Droits

Contents

Introduction	9	Prosecution jurisdiction	26
Case studies	11	Alternative measures (probation)	27
Mohamed el-Baqer	11	Comparative case study: Pre-trial detention in Tunisia	28
Mahienour al-Massry	12	Conclusion and recommendations	30
Ibrahim Metwally	14	International standards and guarantees	33
Amal Fathy	16	1 – Right to liberty	33
Haitham Mohamedeen	17	2 – Right to a fair trial	34
Pre-trial detention of HRDs – the broader context	19	3 – Torture and other cruel, inhuman or degrading treatment or punishment	35
The legal framework of pre-trial detention in Egypt	24	Constitutional standards	37
Grounds for pre-trial detention	24	Rights to liberty, fair trial, protection against torture in Egypt's constitution:	37
Rights of the accused	25	Background on the targeting of HRDs since 2011	39
Period of pre-trial detention	25		

Acronyms

ACHPR:	African Charter on Human and People's Rights
CCP:	Code of Criminal Procedures
HRD:	Human Rights Defender
HRC:	UN Human Rights Council
ICCPR:	International Covenant on Civil and Political Rights
SSSP:	Supreme State Security Prosecution

March 2020

Author: Mina Thabet

Edited by: Nicole Lambert, Felicity Roach, Tom Kenis

ISBN: 978-87-92990-84-6

Pages: 39

Original language: English

Objective of the study

This study analyses the targeting of human rights defenders (HRDs) in Egypt, and more specifically, the government's strategy using pre-trial detention to punish and repress them for their human rights work. The study explores this primarily through personal stories, focusing on the cases of five prominent Egyptian HRDs who have been subjected to prolonged pre-trial detention between 2016 and 2019. The case studies, based on interviews with the HRDs' lawyers and family members,

demonstrate the unfairness of their detention, the exploitation of terrorism charges in an attempt to justify this punishment, the dire conditions and instances of mistreatment and torture in prison, and the impact that pre-trial detention has on the HRDs' lives. The study also gives an overview of international standards and Egypt's constitutional and legal human rights framework, on the basis of which it offers recommendations to Egypt, and the international community.

Executive summary

Against the backdrop of political upheaval since 2011 and a dramatically deteriorating situation for human rights, particularly under the authoritarian regime led by President al-Sisi since 2014, Egyptian HRDs have been hounded by the authorities in order to silence and punish them for defending human rights. Human rights lawyers, journalists, activists, critics and political figures are frequently at the receiving end of heavy-handed repressive tactics employed by the regime. Since 2011, the targeting of the staff of human rights organisations in case no. 173, known as the “foreign funding case”, resulted in many HRDs being placed under a travel ban and having both their personal assets as well as the organisation assets frozen. As the human rights crisis intensified – becoming the worst in recent Egyptian history – an increasing number of HRDs have been subjected to arbitrary arrest and pre-trial detention.

Especially since 2016, pre-trial detention has been abused to eliminate HRDs’ from Egyptian society voices decrying human rights abuses. These detainees consequently lose months or often years of their lives in prison. The Egyptian Code of Criminal Procedures sets out conditions and grounds for pre-trial detention, including the presentation of credible evidence to support the charges against the defendants. In many cases, HRDs in pre-trial detention face terrorism charges and are included in state security cases that are overseen by the Supreme State Security Prosecution. The fact that none of the HRDs examined in this study were presented with credible evidence to justify their detention is a clear illustration of the way the Egyptian regime exploits its legal framework and security concerns to serve illegal practices. The use, or rather abuse, of pre-trial detention as

a tool to crack down on human rights also violates international human rights standards and Egypt’s Constitution, namely the right to liberty, a fair trial, and protection against torture.

In pre-trial detention, HRDs are not only deprived of their liberty, suffering the psychological torment of not knowing when they will be released, but are often subjected to medical neglect, mistreatment, torture, verbal abuse and “bone-cracking conditions”, including the denial of drinking water, sunlight and sufficient ventilation. The relief of being released is often short-lived, as cruel parole measures are often imposed on HRDs, such as spending every night in a police station, or seeing new unfounded charges brought against them, resulting in repeated returns to prison. Needless to say, the negative impact on their well-being, work, social life and family members is significant. The overall result is a chilling effect on HRDs and the human rights community at large.

In light of these findings, the study makes several recommendations. Egyptian authorities should immediately and unconditionally release all arbitrarily detained human rights defenders, activists, journalists, and those peacefully expressing their opinion or defending human rights. Authorities should immediately end the use of prolonged pre-trial detention against human rights defenders, activists and critics, and of precautionary measures as an added punishment to their arbitrary detention. Furthermore, the international community should raise the issue of punitive pre-trial detention of human rights defenders, activists and critics in high-level official visits, publicly and privately.

Introduction

Since 2011, Egyptian society has seen one of the most substantial political and social mobilisations in the country's modern history, which initially succeeded in ending President Mubarak's nearly 30 years rule. The popular uprising of 25 January 2011 offered hope for a better country, the potential to move the country toward democracy, the rule of law and respect for human rights. This potential was unfortunately not realised as subsequent regimes have employed repressive policies reversing the political and social opening created by the uprising.

The country has since slid into periods of unrest, during which the human rights situation rapidly deteriorated. Following the removal of President Mubarak in 2011, the Supreme Council of the Armed Forces (SCAF) seized power promising to lead a smooth transition of power and to respect human rights. Nevertheless, the country's record of human rights under SCAF's rule was appalling.¹ Similarly, from former

President Mohamed Morsi, to interim President Adly Mansour, and current President al-Sisi, the situation further deteriorated. The human rights community has become a target for its efforts to expose human rights violations. Many human rights NGOs, and HRDs have suffered various forms of harassment, repressive legal and extra-legal restraints.

Since 2016, the Egyptian government has arrested several prominent HRDs and subjected them to prolonged periods of pre-trial detention. A growing number of HRDs are facing weak and trumped-up charges associating them with terrorist organisations without evidence. Many HRDs have spent months in pre-trial detention, in some cases exceeding two years, without a fair trial. Also, the government has shown a growing pattern of re-arresting HRDs after they have been released and putting them in a never-ending loop of imprisonment. This study will shed light on the targeting of HRDs and the Egyptian government strategy in employing pre-trial detention as a tool to punish HRDs for their legitimate work and efforts in promoting and defending human rights.

For the purpose of writing this study, the researcher conducted 13 in-depth semi-structured interviews with lawyers and family members of five selected cases of HRDs who have been subjected to prolonged periods of pre-trial detention between 2016 and 2019. The cases were selected because they are representative of the majority of cases of pre-trial detention used as a tool of repression against HRDs. The researcher also spoke to a psychiatric expert to understand the impact

1. Examples of gross violations to human rights under SCAF:
• Eipr. (2012). Abbasiya Events a Continuation of SCAF's Systematic Violations of Human Rights in the Transitional Period | Egyptian Initiative for Personal Rights. Available at: <https://eipr.org/en/press/2012/05/abbasiya-events-continuation-scaf%E2%80%99s-systematic-violations-human-rights-transitional>.
• Human Rights Watch. (2011). Egypt: Protesters' Blood on the Military Leadership's Hands. Available at: <https://www.hrw.org/news/2011/11/22/egypt-protesters-blood-military-leaderships-hands>.

of prolonged detention on HRDs' psychological and mental health. In addition, the researcher spoke to two Tunisian activists and a Tunisian lawyer.

The identity of all interviewees was kept anonymous for security reasons. In addition to the interviews, the study used desk research and secondary sources from existing studies, reports and published data to provide a general background on the targeting of HRDs since 2011. The researcher also conducted a comparative legal analysis of the legal framework of pre-trial detention in Egypt and Tunisia, mentioning the international and constitutional standards in each case.

Case studies

Mohamed el-Baqer

Mohamed el-Baqer is a human rights lawyer and the director of Adalah Center for Rights and Freedoms. He is known for his work in providing free legal aid to victims of human rights abuses including civilians who are being tried before military courts. In 2014, he founded Adalah, which works on criminal justice issues, academic freedoms, minorities and refugee rights. On 29 September 2019, el-Baqer was arrested at the premises of the Supreme State Security Prosecution (SSSP), where he was attending the interrogation of prominent activist Alaa Abdel Fattah.

Alaa Abdel Fattah had been recently released in March 2019 after serving an unjust five-year sentence for participating in a peaceful protest in 2013. The sentence was followed by arbitrary probation conditions that required him to spend 12 hours a day in a police station for another five years. Alaa Abdel Fattah was arrested again on 29 September after concluding his probation for the night. He then appeared before the SSSP.² Mohamed el-Baqer went to attend the interrogation and to provide him with legal aid. However, el-Baqer found himself accused in case number 1356 of 2019 state security; the same case that his client was being interrogated for.

The SSSP accused el-Baqer of ‘belonging to a terrorist group,’ ‘funding a terrorist group,’ ‘disseminating false news’ and ‘misusing

social media.’ On 29 September 2019 the prosecutor ordered 15 days of pre-trial detention for el-Baqer and Abdel Fattah. One day later, el-Baqer was transferred to the notorious Tora Maximum Security Prison II, known as The Scorpion II (al-Akrab II), where he was assaulted and subjected to ill-treatment and humiliation. On 9 October 2019 the SSSP extended his preventive detention and has continued to routinely extend it since.

Ill-treatment and humiliation

According to el-Baqer’s testimony before the SSSP on 9 October 2019, he was subjected to ill-treatment and humiliation during his first day in jail. He said that when he arrived at the prison, officers blindfolded him, stripped him down to his underwear, and subjected him to threats and verbal abuse. The prison guards subjected him to humiliation; they cut his hair and deceived him while he was walking blindfolded to his cell, telling him to run because there were mad dogs chasing him.³

2. BBC News. (2019). Leading Egypt activist arrested amid rare unrest. Available at: <https://www.bbc.co.uk/news/world-middle-east-49873463>.

3. Interview with el-Baqer’s lawyer.

Detention conditions

El-Baqer is being detained in a shared cell with three other persons where conditions are very poor. For the first nine days of his detention, he was kept in the same underwear and could not shower, and he was prevented from buying any personal hygiene products.⁴ His cell has no bed, mattress, or pillows. He is forced to sleep on concrete with only one blanket made of poor materials. This caused him severe pain in the back, joints and muscles for the first nine days.

Later his family was allowed to provide him with two additional blankets, however he remains without a bed or mattress. He is denied access to books, magazines or newspapers and kept in his cell at all times with no access to fresh air or sunlight, which badly affects his health.⁵ He does not interact with persons other than his cell mates. Moreover, when he runs out of the water and food that his family provides during prison visits, he is prevented from buying any food or clean drinking water from the prison canteen, which forces him to drink the prison's undrinkable water and eat its poorly made food. Furthermore, his lawyer requested medical checks for his back, skin, heart, kidney and lungs, which his family believes to be necessary. However, checks were not conducted, and the prison administration only allowed some physical examinations with no further check-ups.⁶ His family has also complained that the prison administration did not allow them to provide him with a jacket to protect him against the cold and that he is denied access to hot water.

Mahienour al-Massry

Mahienour al-Massry is a prominent activist, lawyer and award-winning woman human rights defender. Mahienour is widely known for her activism in labour movements. She has been outspoken on the rights of political detainees in Egypt. She was imprisoned several times following the 25 January 2011 uprising. On 22 September 2019, she was representing a political prisoner during investigations before the SSSP. After the investigation concluded for the day, she went out of the SSSP building where security officers in plainclothes seized her, and quickly bundled her into a minivan and took her to an unknown location.⁷ She was interrogated the next day before the SSSP in state security case 488/2019, where she is facing charges of 'participation with a terrorist organisation to achieve its goals,' 'disseminating false news,' and 'using social media to publish rumours.'⁸ On 23 September 2019 the prosecutor ordered her pre-trial detention for 15 days, which has been routinely extended since. Mahienour was then sent to the women's prison al-Qanater.

Previous detention

Mahienour has been a target of the security apparatus since 2014. She was arrested and subjected to prolonged pre-trial detention, faced an unfair trial, and was on many occasions imprisoned over trumped-up charges. In January 2014 she was sentenced in absentia to two years in prison and had to pay a 50,000 EGP fine over charges of organising an unauthorised protest in 2013 in case 15125/2013 of Manshya Misdemeanour Court.⁹ The protest called for accountability over the brutal torture and murder of Khaled Said, the icon of the Egyptian uprising who was killed in police custody in 2010. In May 2014, Sidi Gaber Criminal Court in Alexandria upheld the two-year

sentence and the 50,000 EGP fine against her. The sentence was reduced later in July 2014 to six months in jail and 50,000 EGP.¹⁰

In June 2014, while she was serving her sentence, she won the 19th Ludovic Trarieux International Human Rights Prize for her work and activism in defending and promoting human rights.¹¹ In September 2014, Alexandria Court of Appeal accepted a petition submitted by her defence team to quash the sentence.¹²

This was not the only time in which Mahienour was deprived of her freedom due to her work and activism in defence of human rights. In 2012, Mahienour, along with other activists and lawyers, was trying to make sure that El Ramal Police Station administration adhered to the prosecution's release order of a number of activists. She and fellow activists and HRDs were assaulted, detained, and later the police pressed charges against them. In February 2015 she was sentenced to two years in prison over charges of 'raiding El Ramal Police Station,' 'damaging police property,' 'attacking security forces,' and 'threatening public security.'¹³ She appealed the verdict, and on May 2015, El Ramal Misdemeanour Court of Appeal reduced the sentence to a year and three months. She was released in August 2016 after serving her sentence.¹⁴

In December 2017, she was sentenced again by Alexandria misdemeanours court to an additional two years in prison over

charges of unauthorised protesting.¹⁵ This time the verdict concerned her participation in the demonstration in 2016 against the decision of al-Sisi's regime to hand over sovereignty over the islands of Tiran and Sanafer to Saudi Arabia. She was released in January 2018 after the Alexandria Court of Appeals acquitted her.¹⁶

10. Front Line Defenders. (2015). Case History: Mahienour El-Masry. Available at: <https://www.frontlinedefenders.org/en/case/case-history-Mahienour-El-Masry>.

11. UIA. (2014). The Ludovic Trarieux Human Rights Prize 2014 awarded to imprisoned Egyptian lawyer Mahinour el-Masry. Available at: <https://www.uanet.org/en/actions/ludovic-trarieux-human-rights-prize-2014-awarded-imprisoned-egyptian-lawyer-mahinour-el->

12. Front Line Defenders. (2015).

13. Amnesty International. (2019). EGYPT: PROMINENT HUMAN RIGHTS LAWYER DETAINED: MAHIENOUR EL-MASRY. Available at: <https://www.amnesty.org/en/documents/mde12/1140/2019/en/>.

14. Front Line Defenders. (2015).

Ibrahim Metwally

Ibrahim Metwally is a lawyer who is known for his human rights activism and work on enforced disappearances in Egypt since 2013. He is known for providing free legal aid to victims of enforced disappearances. He also won several cases for the families of victims of enforced disappearances, obliging the Ministry of Interior to reveal the whereabouts and the fate of the disappeared persons.¹⁷ Ibrahim's son, Amr, was a 22-year-old student at the High Institute for Engineering at Tiba Academy when he disappeared on 8 July 2013. Amr was last seen at pro-Morsi protests outside the Republican Guard headquarters on that day, where military soldiers took him to a military vehicle and drove him to an unknown location. His family failed to find any information about his fate.¹⁸

The disappearance of Amr encouraged his father to co-found the Association of Families of Victims of Enforced Disappearance, a group of family members of victims of enforced disappearance that coordinated efforts of families trying to obtain information about their children.¹⁹ The group emerged following the surge of enforced disappearances in 2013 and used national and international legal mechanisms to search for their disappeared family members.

On 12 October 2019, the SSSP decided to release Ibrahim after exceeding the maximum period of pre-trial detention in state security case 900/2017. He was then sent to Nasr City police station where he spent over a week in release proceedings. Between 23 and 24 October, his family found out that he had been transferred to Kafr al-Sheikh, where his old address was. His family subsequently lost track of him; he disappeared again in police custody until 5 November

2019, when he reappeared before the SSSP and was interrogated in state security case 1470/2019. In the new case, Ibrahim is facing charges of belonging to and financing a terrorist group.

Previous detention

On 10 September 2017, Ibrahim was arrested at Cairo international airport while he was travelling to Geneva to address the UN Working Group on Enforced or Involuntary Disappearance.²⁰ He disappeared for two days before appearing in front of the SSSP, where he was accused of 'leadership of a terrorist group' and 'disseminating false news' in state security case 900/2017.²¹ The prosecutor ordered 15 days of pre-trial detention, which was followed by subsequent extensions. Ibrahim was sent to Tora Max Security Prison II where he spent more than two years in extreme conditions.²² In October 2019, after exceeding the maximum period of preventive detention, the SSSP ordered his release.²³

Torture and ill-treatment

Ibrahim mentioned before the prosecutor that he was tortured, ill-treated and subjected to inhuman and humiliating treatment by National Security officers while he was forcibly disappeared in 2017. He said that officers stripped him of his clothes, filmed him naked, poured cold water on his body and subjected him to electric shocks in several parts of his body including his genitals.²⁴ Despite Ibrahim's testimony before the prosecution that he was tortured, the prosecutor ignored his complaints and did not open an investigation into any of these allegations.

Also, he told the prosecutor while under interrogation in case 1470/2019 that he was ill-treated and humiliated while in National Security custody following his release order in 2019. He said that National Security officers assaulted him, handcuffed his hands and feet and fixed him to a wall. He was forced to sleep in a sitting position. Although he reported the assault and ill-treatment to the SSSP, the prosecutor ignored these claims and did not open an investigation, instead ordering 15 days of preventive detention.

Severe deterioration in health due to detention conditions

Due to the extreme conditions of his detention, Ibrahim repeatedly complained of the rapid deterioration of his health. He has been kept in solitary confinement for a prolonged time which has had a severe impact on his psychological health. He suffers from deteriorating eyesight due to poor lighting and pale skin-colour due to a lack of

sunlight.²⁵ He also suffers from prostate problems and nervous tremors, and has repeatedly requested medical care, which has been ignored by the prison administration and the SSSP.²⁶ Moreover, Ibrahim mentioned that he suffers from back and joint issues due to poor sleeping conditions and lack of movement as he is kept in his cell at all times and denied his exercise time.²⁷

Amal Fathy

Amal Fathy is an Egyptian activist who has been vocal about human rights abuses in Egypt, especially sexual harassment and violence against women. She is the wife of Mohamed Lotfy, a former Amnesty International researcher and the executive director of the Egyptian Commission for Rights and Freedoms (ECRF). Egyptian Special Forces, along with National Security officers, raided her house at around 2:30 AM on 11 May 2018. She was arrested and taken with her husband and three-year-old son to Maadi police station. Her husband and son were later released. She however was transferred to Maadi Misdemeanour Prosecution.

The prosecutor questioned her in case 7991/2018 of Maadi Misdemeanours about a live video she streamed on her Facebook account a couple of days earlier, complaining about sexual harassment in the country, sharing her experiences. She was accused of 'broadcasting false news affecting national security,' 'possession of indecent materials,' and 'use of foul language.' The prosecutor ordered her pre-trial detention for 15 days on 11 May 2018. The next day she was transferred to al-Qanater women's prison. On 19 June 2018 a judge ordered her release on a bail of 10,000 EGP. The prosecution appealed the judge's decision but on 21 June the Criminal Court of South Cairo rejected the appeal, confirming her release order.²⁸

Despite the release-on-bail order, Amal was not released. She was detained over alleged accusations in another state security case. On 13 May, her husband was bringing clothes to her in prison when he learned that she was transferred to the SSSP for another investigation.²⁹ Amal was questioned in state security case 621/2018, facing charges of 'membership of a terrorist organisation,' 'use of the internet to promote

ideas and beliefs calling for terrorist acts,' 'spreading false news and rumours damaging public order' and 'harming national interest.' The supreme state security prosecutor ordered her pre-trial detention for 15 days to be served after the Maadi case investigation was resolved. Over the charges in state security case 621/2018, Amal remained in pre-trial detention until she was finally released on parole in December 2018, after spending more than seven months in preventive detention.³⁰

During her pre-trial detention over the charges of case 621/2018, Maadi Misdemeanour court convicted her in case 7991/2018. Amal was sentenced to two years in prison and a fine of 10,000 EGP. The court set a 20,000 EGP bail to suspend the sentence. An appeals court upheld the sentence against her in December 2018, just a couple of days after her release.³¹

Unofficial interrogation in detention

Amal was unofficially interrogated by National Security officers in prison. The officers showed her photos of herself, her husband and other activists including Ahmed Abdallah, ECRF's head of board of trustees, and asked her what she knew about them. Officers also asked her about ECRF's work, its donors, staff members and headquarters location. She was told that if she stated before the prosecutor that Ahmed Abdallah and her husband, Mohamed Lotfy, incited her to stream the video for which she was being detained they would set her free.³²

Severe deterioration of health condition

Amal suffered from chronic depression in detention, which she is currently still recovering from.³³ On 17 May 2018, when her husband visited her in prison, she said that she suffered a severe panic attack the day before and was taken to the prison hospital. The prison doctor wrote a medical report saying that she had bipolar disorder.³⁴

On 4 June 2018, during a prison visit, Amal informed her husband that the prison doctor wrote a new medical report saying that she was under the shock of imprisonment which caused her frequent panic attacks, trembling in one hand, increasingly turning inward, and that the her continued detention made her condition worse. On 19 June 2018, during the court session, Amal Fathy suffered a severe panic attack for 30 minutes.³⁵

On 2 July 2018, Amal arrived at the SSSP showing symptoms of acute stress and convulsions. She was unable to walk on her own. During the interrogations, Amal mentioned to the prosecutor that she had been referred to the prison doctor the day before after her health condition deteriorated. She was diagnosed with paralysis in her left leg, and the doctor made a request for her to be referred to a psychiatrist. Lawyers requested that she be examined by a doctor to diagnose her condition and treat her leg condition.³⁶

Haitham Mohamedeen

Haitham Mohamedeen is a lawyer, prominent labour activist and HRD who is widely known for his support for workers' rights, migrant rights and labour unions. Haitham is also known for his commitment to social and political movements, like the Kefaya Movement,³⁷ and Socialist Revolutionaries movement. He was also a well-known figure in the protests that followed the January uprising. He has worked for several Egyptian human rights NGOs, like El Nadeem Center for Rehabilitation of Victims of Violence and Torture.

On 13 May 2019, Haytham was arrested at al-Saf police station in Giza, and kept *incommunicado* for two days.³⁸ He had been summoned to the police station regarding allegations that he violated his parole conditions in relation to state security case 718/2018, for which he was released on parole in 2018. When he went to the police station, he was held by the police officers and prevented from communicating with his lawyer or family. Two days later, he appeared before the SSSP and interrogated in case 741/2019 on charges of 'participation with a terrorist group in achieving its goals,' 'spreading false news,' and 'misuse of social media.'³⁹ The prosecutor ordered Haitham's preventive detention for 15 days, and has routinely extended it since. In November 2019, Cairo Criminal Court ordered the release of Haitham on parole, however, the SSSP appealed the court's decision.⁴⁰ The prosecution's appeal was upheld, and the court extended his preventive detention for 45 days.

Previous detention

Haitham has been a target of National Security, especially after 2013. He was apprehended, arrested and ill-treated, accused on trumped up charges, and subjected to prolonged periods of pre-trial detention on many occasions. In September 2013, Haitham was apprehended and illegally searched at a checkpoint in Suez where he was going to support a worker sit-in. He was then transferred to Ataa police station in Suez where he was interrogated by police officers concerning his political views and affiliation. Two

days later, he was transferred to Suez prosecution, where he was interrogated about his political views and affiliation to the Socialist Revolutionaries Movement. The prosecutor ordered his release after three days in detention.⁴¹

On 22 April 2016, security forces stormed Haitham's house in al-Saf and arrested him.⁴² He was later questioned before South Giza prosecution in case 58/2016, where he was facing a list of charges including 'membership of a terrorist group' and 'calling for illegal protest.' This came in the wake of the protests against the Egyptian government's decision to hand over sovereignty of the islands of Tiran and Sanafir in 2016. The prosecution ordered his pre-trial detention which was extended for a total of six months.⁴³ In October 2016, a court decided to release him on parole; the conditions of his parole required him to report to a police station for three hours for three days a week. However, he was released 18 days later from al-Saf police station.⁴⁴ A month later, the court abandoned the parole, releasing him without further action.

In May 2018, Egypt's ministry of transport decided to raise the prices of Cairo's metro tickets. The decision sparked anger among many Egyptians who use the metro on a daily basis; calls for protests spread on social media in response. The Egyptian security services responded by arresting tens of people who participated in protests in metro stations.⁴⁵ On 17 May 2018, although he did not participate in the calls or protests, security forces raided Haitham's house, arrested him and took him to an unknown location. On 19 May 2018, he appeared before the SSSP and was questioned in state security case 718/2018, known as the 'metro tickets case.' The SSSP accused him of a list of charges including 'helping a terrorist group in achieving its goals,' 'spreading false news,' and 'participation in unauthorised protest.'⁴⁶ The prosecution ordered his preventive detention for 15 days, which was followed by subsequent decisions to extend his detention until a court decided to release him on parole in October 2018. The conditions of his parole were to report to a police station for two days a week, then it was alleviated to one hour a week.⁴⁷

41. See Haytham's testimony on his arrest in Suze in 2013: <https://youtu.be/j1pw7skn3Ao>

42. El Waqe, M. (2014). Socialist Revolutionaries: Haytham Mohamadeen has been arrested at dawn from his house. Almasry Alyoum. Available at: <https://www.almasryalyoum.com/news/details/934409>.

43. Interview with Haytham's lawyer.

44. Ibid.

Pre-trial detention of HRDs – the broader context

State security cases

The researcher found that in all the case studies investigated, HRDs are facing terrorism charges, and as a result, the Supreme State Security Prosecution (SSSP) is in charge of all pre-trial investigations. According to interviews conducted with lawyers of HRDs, the prosecutors ordered the detention of their clients relying merely on the reports of National Security officers who failed to present evidence to support their claims. Their detention is therefore arbitrary according to international standards. In the five case studies, the SSSP charged HRDs with associating with a terrorist group. The legal penalty for that crime ranges from life imprisonment to capital punishment. Four of the lawyers that were interviewed agreed that pressing such charges gives the SSSP and judges who are investigating terrorism-related cases the license to extend pre-trial detention to its maximum limit. They stated that this type of criminal case is designed principally to provide a legal cover to deprive the persons accused of their liberty. The government explained that most of the time the law had been circumvented in favour of keeping them in detention, and many of the detainees' rights had been ignored. In all five cases, lawyers of HRDs stressed that the detention of their clients lack the two '*essential conditions*' for pre-trial detention that are stipulated by the law: no credible evidence was presented to indicate that the HRDs committed the offenses they were charged with, and all HRDs have known addresses in Egypt. Also, there were no '*reasonable grounds*' for detention.

"Before even looking into the grounds of preventive detention, there should be evidence on the credibility of the accusations in the first place. National Security reports are not credible evidence. Also, the accused should be questioned and confronted with the evidence held against them, which in most cases did not happen,' a lawyer said."

Another lawyer emphasised this, saying: 'my client was not confronted with any evidence against her; we don't know, [...] the prosecutor has never confronted her with, for example, a post on social media and said this is the false news she disseminated.' This indicates that despite the attempt of the Egyptian regime to give the detention of HRDs a legal appearance, it does not conform to Egyptian law or international standards. Five lawyers have explicitly stated that all HRDs in this study were questioned regarding the charges against them in the first session before the SSSP, and all subsequent detention sessions were just routine extension sessions where no further evidence or information was presented. This contradicts the legal grounds for the extension of the pre-trial detention, where the extension of the detention must come in favour of the investigation.

“According to article 143 of the CCP, to extend the detention of the accused, it must be in the interest of the ongoing investigation. In fact, we saw nothing in the interest of the investigation for months, only one interrogation session that ended with their detention, and all the following sessions were just a routine extension with nothing new to add,” a lawyer said.

Similarly, two lawyers stated that it has become evident that if someone has been charged in such cases, the SSSP will extend their detention for at least 150 days, and if they are referred to exceptional terrorism courts, it is highly unlikely that the court will order their release.

All lawyers mentioned that during all detention extension sessions they have repeated the same legal defence and requested the release of their clients, explaining the lack of evidence and the absence of reasonable grounds for the detention that were set forth by the CCP. However, their defence and requests were dismissed, and their clients remained in detention.

Similarity between state security cases and Mubarak’s administrative detention

Four lawyers and two family members of HRDs mentioned that state security cases resemble the notorious ‘*administrative detention*’⁴⁸ of the Mubarak era to deprive HRDs of their freedom by detaining them without charges. Similarly, the Egyptian regime currently uses pre-trial detention in state security cases to deprive persons, including HRDs, of their liberty by bringing loose charges without evidence to support them. The current authorities are emulating the Mubarak regime’s policies, which used administrative detention to silence critics and political figures.

“Security forces use pre-trial detention as an alternative means to Mubarak’s administrative detention to send people they don’t like to jail. [...] The difference is that the arbitrariness of administrative detention was very clear, yet now the government is claiming that the detention has a legal justification, and it is using the SSSP and terrorism courts to cover this.” A lawyer said.

Pre-trial detention as a punishment

Five lawyers and three family members interviewed for this study believe that the use of preventive detention by the Egyptian government against HRDs is meant to punish them for their work and activism. Although pre-trial detention is supposed to be an exceptional measure that a judge would take to protect society or the course of justice, it is not being used for this purpose. It has been implemented to penalise HRDs' work and to spread fear. A family member told the researcher that he believes that the detention of his brother meant to "punish him for who he is." He explained "they wanted to make an example of him for opposing the government [...] HRDs amplify the voices of people, address their concerns. [...] When they are put in jail, many people get scared and revert to silence."

Lawyers affirmed that between 2016 and 2019, the Egyptian regime systematically subjected political figures, journalists, critics and HRDs to prolonged pre-trial detention based on arbitrary accusations unsupported by evidence. Since 2017, the SSSP has played a significantly expanding role in detaining people, especially HRDs, using state security cases.

"The number of state security cases in 2017 exceeded 900, under which thousands of people were subjected to prolonged pre-trial detention. In 2018 this number exceeded 1,200 cases. In 2019 it exceeded 1,800. In most of these cases the SSSP conducted all investigations and ordered the detention of thousands of people, including HRDs. [...] Very few of these cases were transferred to a court," a lawyer said.

This systematic use of pre-trial detention against HRDs has increased over the last four years.

Between 2016 and 2017, the SSSP authorised other branches of the public prosecution to conduct investigations in state security cases. Lawyers said that between 2016 and 2017, they could communicate with their clients with no restrictions, and in some cases, they could see the case on paper, and obtain a copy of the investigations. Two lawyers said that they attended the detention sessions with some hope of getting their clients out.

However, between 2017 and 2019, the situation went from bad to worse. Lawyers and family members of HRDs who were detained before 2019 told the researcher that the situation in the last two years had become extreme. The targeting of HRDs is not necessarily related to specific actions they took which provoked the government. In fact, the charges against them are not related to actions they took or something they said. For example, before Haitham Mohamedeen was arrested in 2018, he was in a mourning period for the death of his younger brother. He spent most of his time with his family and did not engage in any political events. Nevertheless, he was arrested and ended up spending more than five months in detention.

The declining situation has affected lawyers of HRDs and limited their liberty to work. In some cases, lawyers were being targeted themselves, as the case of Mohamed al-Baqer shows quite clearly. Moreover, lawyers complained that in the last two years they have faced restrictions communicating with their clients before the SSSP. Also, they complained that they were denied access to the case documents and evidence against their clients. Moreover, lawyers have stressed that the extreme security measures imposed on them to access SSSP buildings are limiting their freedom and ability to work.

“How can I represent a client, but I can’t speak to them freely? I must obtain special permission from the prosecutor to talk to them for a few minutes after the session. How can I work under extreme security measures and I’m not allowed to bring my bag or phone while I am doing my job?” a lawyer commented.

Use of ‘precautionary measures’ [parole] as an added punishment

Two of the five HRDs mentioned in this study had been previously released on parole. Their lawyers and family members consider their parole conditions as additional punishment to their prolonged arbitrary detention. In both cases HRDs experienced restrictions on their liberty for a long time after they were released. Family members expressed their continued anxiety with each day HRDs are forced to meet these conditions. “We were worried, they could take him again. And it happened,” a family member said. This has also affected their recovery following the detention. Family members explained that they always feel that they are not yet free, they cannot do most of things they want to do, they cannot plan, and they always must go back to part-time detention.

Further effects of detention

The punishment of HRDs extends far beyond the denial of liberty; it affects their work, activism, and their physical and mental health. Family members told the researcher that the detention of HRDs has

affected their psychological and physical health. The ramifications of their detention vary depending on the circumstances and place of detention. Family members of four HRDs said that they suffer from physical health issues due to poor detention conditions. At least three of the five HRDs mentioned in this study face physical health issues including severe and constant pain in their back muscles and joints due to poor sleeping conditions and denial of yard time.

Lawyers and family members mentioned that the lack of drinking water and low-quality prison food negatively affect the HRDs’ general health. An HRD family member said that “they are keeping them in bone-cracking conditions [...] they deny them exposure to sunlight, sometimes they don’t allow them to have salt, force them to drink unclean water and provide very little and low-quality food.” Another family member of an HRD said that his brother refused to head straight home when he was released a year earlier, instead he went to conduct a full check-up out of fear that he caught an infection in detention.

All interviewees mentioned that prolonged, and in some cases repetitive, detention of HRDs has severely affected their psychological and mental health. In some cases, the effects manifest in their physical condition as well. In one case the detained HRD experienced temporary paralysis in her leg and arm due to the severe deterioration in her psychological state during detention. She said that she was prevented from talking to other prisoners for an extended time, which led to a further deterioration in her condition.

The researcher spoke to a psychiatric expert to understand the impact of prolonged detention on HRDs’ psychological and mental health. The expert explained that pre-trial detention, especially for HRDs and activists, is difficult to comprehend, because they, more

than anyone else, realise that it has no basis in law, is not associated with any serious charges and can go on for very long periods of time for no apparent reason, which creates a state of unpredictability and uncertainty. The expert highlighted “unpredictable hardships deprive a person of the ability to analyse or foresee an end to the hardship, thus depriving a person of the ability to plan ahead and also of hope for the future.” The expert further clarified that this unpredictability, lack of logic and sense of revenge involved in pre-trial detentions creates a state of incoherence.

“We need coherence to place ourselves in the world, to understand the past, place ourselves in the present and plan for the future. When our daily reality deprives us of this coherence we fail to look ahead, so we may anticipate danger and create a state of anxiety, or give up, therefore creating a state of depression, or just let go and live day by day taking it all in with no outlet for questions and emotions.”

This also affects the families of HRDs. Four family members said that the detention of their relatives has negatively affected their life. Two family members of HRDs said that they were forced to change their address following the arrest and detention of their family members. Others explained the extreme pressure they were put under due to the detention of their family members. A family member said that

he was under severe pressure all the time. “I always felt that I am not doing enough to get her out, [...] she was questioned about me, my work and colleagues in detention. She spent about six months in detention for this case, and I felt that was my fault, because of my work she is paying a price,” he explained.

With an estimated 60,000 political detainees in Egypt⁴⁹, one can only imagine the far-reaching consequences that the regime’s crackdown on dissenting voices has on society as a whole.

The legal framework of pre-trial detention in Egypt

There is no independent law that regulates pre-trial detention in Egypt. However, the legal framework of pre-trial detention can be found as a part of law no. 150 of 1950, known as the Egyptian Code of Criminal Procedures (CCP).⁵⁰ Pre-trial detention, or as stipulated in the law 'preventive detention,' is mentioned in several legal articles of the First Book, chapter 3 of the CCP.

Grounds for pre-trial detention

Article no. 134 sets forth two '*essential conditions*' and another four '*reasonable grounds*' for preventive detention. The 2006 amendments⁵¹ made the conditions for detention stricter. It allows the investigative judge to detain a person only when two conditions are met: if they are accused of a misdemeanour or a felony that is punishable by imprisonment of no less than a year, and credible

evidence is presented. These two main conditions are limited by four *reasonable grounds*:

1. In case of flagrante delicto in which the verdict shall be executed once it has been issued;
2. Fear that the accused may escape;
3. Fear of harming the investigation by affecting the victim or witnesses or tampering with the evidence or material clues or by making agreements with the rest of the perpetrators to change the truth or obliterate its features (i.e. obstruction of justice);
4. Preventing serious breaches of security and public order that may ensue from the gravity of the crime.

The only exception for these conditions is if the accused does not have a known address in Egypt, and he or she was accused of a felony or a misdemeanour punishable by imprisonment.

50. An updated Copy – in Arabic – of the law can be found online on: https://manshurat.org/node/14676?fbclid=IwAR0jQw_sPBHmSs0uYrUltU_8D1_-wk4MwfkZXfMx6DAXgUHv3Oy0Bxpl3g.

51. Egypt. (2006). Law No.145/2006: amendments to the provisions of the Criminal Procedures Code No. 150/1950. Official Gazette. Issue 30. Available at: https://www.cc.gov.eg/Legislations/Egypt_Legislations_Images.aspx?ID=114854.

Rights of the accused

Article 136 affirms that the investigative judge should listen to the defence and the prosecution before they issue their decision; in case the judge decides to detain the accused, the detention order should include a statement of the crime attributed to the accused, the penalty for it, and the reasons on which the order is based. Also, article 139 guarantees that every person who is arrested or detained has the right to access a lawyer; has the right to be immediately informed of the reasons for their arrest or detention, and to contact whoever they want to inform of their arrest or detention.

In addition, article 141 allows the investigative judge or the prosecution to deny the accused in detention to interact with other detainees, or have visits while in detention, except for their lawyer. The article does not however put any limitations on this power, nor does it set specific cases or reasonable grounds for such a decision. Moreover, the accused has the right to appeal the preventive detention order against them and has the right to appeal the extension to their preventive detention as well.⁵² Although the law guarantees this right for the accused at any time, it is *de facto* restricted as the accused is only allowed to appeal the decision of extending their preventive detention, in case their appeal was rejected, every 30 days.⁵³

Period of pre-trial detention

According to article 142, preventive detention expires 15 days after the date of detention. The investigative judge however has the authority to extend the detention for similar periods that cannot exceed 45 days in total. The reason behind extending the detention, as designated by article 143, is that the investigation into the case is not concluded. The extension of the detention in this case is restricted to one purpose: the interest of the investigation; otherwise the detainee should be released.

The maximum period of preventive detention is specified by article 143: 'In all cases, the period of preventive detention [...], may not exceed one-third of the maximum penalty that deprives of liberty.' In particular, the article sets specific limits for the maximum period of preventive detention asserting that it cannot exceed six months for misdemeanours, 18 months for felonies, and two years if the penalty for the charged crime is life imprisonment or death. Yet, in 2013, the article was amended again, introducing one exception to this. The amendment granted the Court of Cassation and the Court of Referral the power to extend the detention without any limitation, in case a verdict for death or life imprisonment was overturned, and the defendant was going through a re-trial process.

Prosecution jurisdiction

The power to put people in preventive detention belongs to three different bodies. The public prosecution has the power to order preventive detention up to four days.⁵⁴ In case it decides to extend the preventive detention, the prosecution should refer the case to a judge, who has the power to extend the detention to a maximum of 45 days.⁵⁵ If an investigative judge is competent, and therefore the prosecution is the legal opponent of the accused, the judge has the power to detain the accused for 15 days, and to extend the preventive detention for similar periods up to 45 days.⁵⁶ The Appeals Court for Misdemeanours can extend the preventive detention for a period of 45 days, and up to its maximum limits.⁵⁷

Although in most of its articles, the CCP portrays the public prosecution as the counterpart of the accused, it grants the prosecutors a wide range of powers, including the power to extend the preventive detention. The CCP authorises the prosecutors to be in charge of all investigations of the crimes during the primary stages of the criminal case.⁵⁸ Prosecutors have the authority to investigate crimes, summon for questioning, issue arrest and search warrants, release the accused on bail or without bail,⁵⁹ and to appeal the release orders issued by a judge during pre-trial investigations.⁶⁰ In addition, prosecutors have the power to file and initiate criminal cases⁶¹, and to supervise⁶² and monitor⁶³ prisons and places of detention.

The Egyptian legislator gives extensive powers to the prosecution in several legal texts. Article (206 bis) of the CCP grants prosecutors with the rank of prosecution director all the powers given to the

investigative judge, including the power to extend the preventive detention up to 150 days. The same power was affirmed by article 43 of the Anti-Terrorism Act no. 94/2015 to prosecutors while investigating terrorism crimes. The Anti-Terrorism Act allows public prosecutors to extend the preventive detention for 14 days in case a danger of terrorism arises.⁶⁴ Moreover, article 43 of the act grants the prosecutors the power to extend preventive detention to its maximum limits stipulated in article 143 of the CCP.

The Supreme State Security Prosecution (SSSP) is a branch of the public prosecution that is responsible for investigating and prosecuting a wide range of crimes that are considered as endangering national security. Recent studies show that the SSSP has an expanding role in Egypt's justice system, functioning as a tool of repression responsible for depriving thousands of people of their freedom.⁶⁵ This indicates a structural problem in the Egyptian justice system.

Alternative measures (probation)

Three measures that can be used as an alternative to preventive detention:

- » House arrest;
- » Requiring the accused to present himself to police headquarters at set times;
- » Prohibiting the accused from visiting certain places.

Preventive detention becomes permissible in case the accused violates any of the given measures. These measures also follow the same rules for the extension of preventive detention, including the appeals and the maximum periods.

Comparative case study: Pre-trial detention in Tunisia

Pre-trial detention is a common practice all over the world, but in order to examine whether the way it is used in Egypt differs from other practices, we decided to explore how it is used in another country of the region.

The Tunisian constitution, like the Egyptian one, explicitly prohibits torture, stating that the state protects human dignity and physical integrity and prohibits mental and physical torture. It also stipulates that crimes of torture are not subject to any statute of limitations.⁶⁶ The Tunisian constitution stresses the right to a fair trial, the principle of presumption of innocence in trials and the right to have a trial within a reasonable period.⁶⁷ Article 27 stipulates that defendants shall be presumed innocent until proven guilty in a fair trial in which they are granted all guarantees necessary for their defence throughout all the phases of prosecution and trial.

Moreover, the constitution prohibits the detention or apprehension of persons unless they are apprehended during the commission of a crime (*in flagrante delicto*), or on the basis of a judicial order. Furthermore, it requires that the detained person must be immediately informed of their rights and the charges under which they are being held, and that they have the right to be represented by a lawyer. However, the constitution does not limit periods of arrest and detention, but it states that the law should regulate such periods.

According to the Tunisian Code of Penal Procedures - *Code de procédure Pénale*,⁶⁸ the judicial police has the jurisdiction to examine crimes, gather evidence and look for those who committed crimes.⁶⁹ The judicial police can detain a suspect for a maximum of 24 hours with written permission from a prosecutor, which can be extended to an additional 24 hours for misdemeanours and 48 hours in the case of felonies.⁷⁰ The prosecutor can extend the detention of a suspect for 24 hours in the case of misdemeanours and 48 hours for felonies, with a written order that has to include the factual and legal justifications for the extension.⁷¹ Unlike Egyptian law, Tunisian law does not grant wide jurisdiction to the prosecution over pre-trial investigations. Tunisian law states that an investigative judge is responsible for all pre-trial investigations in any given case.⁷² Investigative judges are not allowed to participate in issuing a verdict in the case they investigated.⁷³ Such principles are necessary to ensure the structural power balance between different branches of judicial authorities, which are missing in Egyptian law.

66. Art. 23 of the Tunisian constitution, an IDEA translation is available at: <http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/laws/4808.pdf>

67. Art. 108.

68. An Arabic online copy of the law is available at: http://www.legislation.tn/affich-code/Code-de-proc%C3%A9dure-p%C3%A9nale_91

69. Code of Penal Procedure, Art. 9.

70. Ibid, Art. 13 bis.

71. Ibid.

72. Ibid, Art. 48.

73. Ibid, Art. 50.

Preventive detention in Tunisian law

Tunisian law considers preventive detention to be an exceptional measure that should be taken according to roles and regulations stated in the law.⁷⁴ It states that any person who has a known address in Tunisia, and has been accused of committing a crime, should be temporarily released within five days of their questioning. This rule is valid only in case the suspect was not previously sentenced to more than six months in prison, and the sentence for the crime under investigation does not exceed two years of imprisonment.⁷⁵ The law only allows the detention of a person in case of felonies and in flagrante delicto misdemeanours. The law also requires the presence of solid evidence necessitating the detention of the suspect as a means to stop them from committing further crimes, to guarantee the execution of a penalty, or to ensure the safety of the investigation.⁷⁶

The maximum period for preventive detention in these cases should not exceed six months, and the detention order must include a factual and legal basis that can justify the detention. However, the law allows the extension of the preventive detention in case the interest of the investigation requires keeping the suspect in detention. The investigative judge can, after consulting with the prosecution and issuing a justified order, extend the detention for one time in case of misdemeanours for three months, and in case of felonies twice for four months each. The extension of detention decision is subject to appeal.⁷⁷

Temporary release

In all circumstances, Tunisian law grants the investigative judge the power to order the temporary release of the suspect after consulting with the prosecutor. The investigative judge can order the temporary release of the suspect at any time based on the suspect's request, his lawyer's request or the prosecutor's request.⁷⁸ Also, the judge's decision to accept or to reject the request for a temporary release is subject to appeal. Nevertheless, the temporary release order is subject to one or more of the five conditions stated in article 86 of the Tunisian Code of Penal Procedures:

1. House arrest;
2. Restrictions on movement to certain areas;
3. Ban on appearing in certain places;
4. Notification to the judge of the suspect's movements to certain areas;
5. Commitment of the suspect to attend and respond to summon orders in relation to the ongoing investigation.

In conclusion, similar to the Egyptian law, Tunisian law allows pre-trial detention of individuals in certain cases. However, Tunisian law explicitly states that pre-trial detention is an exceptional measure. Also, the maximum period of pre-trial detention in Tunisian law is almost half than in Egyptian law. Contrary to Egyptian law, Tunisian law does not grant the prosecution a wide range of powers and jurisdiction, leaving prosecutors with very limited powers to deprive the accused of their liberty. Instead, Tunisian law grants this authority to a judge who is not allowed to participate in the decision-making process during the actual trial. Such roles as stipulated by Tunisian law provide a better guarantee of impartiality of the body that has the authority to deprive individuals of their liberty in the pre-trial stage.

Conclusion and recommendations

This study has shown that the Egyptian government systematically employs the Supreme State Security Prosecution (SSSP), exceptional terrorism courts and National Security Agency to deprive HRDs of their liberty using state security cases. National security officers have repeatedly arrested, ill-treated and tortured prominent HRDs and associated them with terrorist groups, in blatant violation of international law and the Egyptian constitution. Similarly, the SSSP has routinely issued arrest warrants, that lawyers do not have access to, and routinely detained HRDs based on loose and ambiguous charges without any solid evidence to support them. Also, the SSSP and terrorism courts have frequently ignored complaints by HRDs of torture, ill-treatment and medical neglect.

The targeting of HRDs through state security cases and the use of pre-trial detention as punishment for the legitimate work and activism defending and promoting human rights, is a worrying escalation against the human rights community in Egypt and society as a whole. It also shows the unprecedented scale of the harsh and hostile environment in which the human rights community is struggling to continue its work defending human rights.

This escalation foreshadows further restrictions on the work of human rights defenders in Egypt which threatens to extinguish the human rights community. The government's labelling of HRDs as 'terrorists' or accusations of complicity with terrorists, reveals the Egyptian regime's zero-tolerance policy toward the work of human rights organisations. Moreover, the abuse of the Egyptian legal system and the complicity of the SSSP and exceptional terrorism courts in violating HRDs' rights or liberty and fair trial guarantees, demonstrates the structural defect in the Egyptian justice system.

Recommendations to Egypt:

- Immediately and unconditionally release all arbitrarily detained human rights defenders, activists, journalists, and those peacefully expressing their opinion or defending human rights;
- Immediately cease the use of prolonged pre-trial detention against human rights defenders, activists and critics, and end the use of precautionary measures as an added punishment to their arbitrary detention;
- Review all state security cases against human rights defenders, activists and critics, and promptly present all the accused in these cases to an independent and impartial tribunal and guarantee their right to a fair trial or drop all charges against them;
- Open investigations into all allegations of torture, ill-treatment and enforced disappearances and ensure that those responsible for such violations are held accountable, and immediately suspend them from work until proven innocent;
- Grant unimpeded access to independent and impartial monitoring and oversight of detention as per international standards and best practices;
- End the crackdown on the human rights community in Egypt, including all forms of harassment, legal and extra-legal measures against human rights NGOs, their staff members and human rights activists;

- Amend article 143 of the Code of Criminal Procedures to decrease the maximum periods of pre-trial detention, ensure that suspects are brought promptly before a competent and impartial judge and only subjected to pre-trial detention in extreme circumstances, and not be arbitrarily detained;
- Repeal articles 206 bis of the Code of Criminal Procedures and 43 of the Anti-Terrorism Act 94/2015, which grants prosecutors with the rank of prosecution director all the powers given to the investigative judge;
- Ensure that the accused and their lawyers have access to all documents and evidence related to their cases, that they obtain a copy of the case files and provide them with enough time to prepare their defence;
- Ensure that the conditions in detention facilities are in accordance with the UN Minimum Standard Rules for the treatment of Prisoners, including access to adequate healthcare.

Recommendations to the European Union, the United Nations and their Member States:

- Raise the issue of punitive pre-trial detention of human rights defenders, activists and critics in high-level official visits, in the framework of bilateral dialogue with Egypt and at the UN Human Rights Council, publicly and privately;
- Raise individual cases of human rights defenders and activists in pre-trial detention, observe pre-trial renewal sessions and trials, and request regular updates about their situation. For EU Member States, this is in line with the EU guidelines on human rights defenders;

- Ensure that cooperation programmes with the public administration to strengthen accountability, rule of law, human rights and access to justice do not provide funding to institutions that facilitate repression in Egypt, notably the Office of the Public Prosecutor, and conduct human rights impact assessments for any technical assistance programme that involves the judiciary;
- Support requests by UN treaty bodies and special procedures to carry out official missions to Egypt, particularly the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, torture and other cruel, inhuman or degrading treatment; and the Chair Rapporteur of the UN Working Group on Arbitrary Detention; and ensure that no one is subjected to reprisals, such as arbitrary arrest or intimidation, for cooperating with the UN human rights mechanisms.

International standards and guarantees

States are supposed to enforce international human rights law themselves. By their own willingness, states choose to be bound by treaties and covenants they signed and ratified. According to Article 26 of the Vienna Convention on the Law of Treaties, State Parties – in any given treaty – are required to give effect to the obligations under the Covenant in ‘good faith’.⁷⁹

Under international law, states are bound to three main obligations: respect, protect and fulfil human rights.⁸⁰ The obligation to respect human rights simply means that states must refrain from violating, curtailing or hindering the full enjoyment of rights and freedoms. While the obligation to protect human rights means that states have a responsibility to protect individuals and groups from human rights abuses; the obligation to fulfil human rights means that states must take positive action to ensure the full enjoyment of human rights.⁸¹

1. Right to liberty

The right to liberty and security of a person is a fundamental and profoundly important right that was proclaimed by article 3 of the Universal Declaration of Human Rights.⁸² Article 9 of the International Covenant on Civil and Political Rights (ICCPR) states that everyone

has the right to liberty and security.⁸³ Similarly, article 6 of the African Charter on Human and People’s Rights (ACHPR) states that every individual shall have the right to liberty and to security, and that no one may be arbitrarily arrested or detained.⁸⁴

However, the right to liberty is not absolute. Both Article 9 of ICCPR and article 6 of ACHPR recognises that sometimes deprivation of liberty is justified, when it occurs on grounds and in accordance with procedures established by law.⁸⁵

Like article 6 of ACHPR, article 9 of the ICCPR prohibits unlawful deprivation of liberty and arbitrary arrest and detention, and sets out in paragraphs 2-4, the requirements for the benefit of persons who are deprived of liberty. The article requires that anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and shall be promptly informed of any charges against them. Also, it requires that anyone arrested and detained on criminal charges should be brought promptly before a judge or an officer authorised to exercise judicial power. Furthermore, it requires that anyone who is deprived of their liberty by arrest or detention should be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful.⁸⁶

79. Vienna Convention on the law of treaties. United Nations. Treaty Series. vol. 1155, p. 331. available at: https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

80. International Law. 2019. Available at: <https://www.ohchr.org/en/professionalinterest/pages/internationallaw.aspx>.

81. Ibid.

82. Universal Declaration of Human Rights. Paris. 10 December 1948. United Nations. General Assembly. Available at: <https://www.un.org/en/universal-declaration-human-rights/>.

83. International Covenant on Civil and Political Rights. 16 December 1966. United Nations. General Assembly. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

84. African Charter on human and people’s rights. Organisation of the African Unity. 27 June 1981. Nairobi. Available at: <https://www.achpr.org/legalinstruments/detail?id=49>.

85. Ibid. also see ICCPR.
86. Ibid.

The UN Human Rights Committee (HRC) considers an arrest or detention that lacks any legal basis to be arbitrary.⁸⁷ The HRC also stresses that any substantive grounds for arrest or detention must be prescribed by law and should be defined with sufficient precision to avoid overly broad or arbitrary interpretation or application.⁸⁸ Moreover, it acknowledges that unauthorized confinement of prisoners beyond the length of their sentences is arbitrary as well as unlawful; similarly, it deems unauthorised extension of other forms of detention to be arbitrary.⁸⁹

Also, the committee deems that continued confinement of detainees in defiance of a judicial order for their release arbitrary as well as unlawful.⁹⁰ In addition, the HRC recognises any arrest or detention as punishment for the legitimate exercise of the rights guaranteed by the ICCPR to be arbitrary⁹¹. The committee's notion of arbitrariness is not confined to the domestic legality of the arrest or detention, but it includes elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.⁹²

2. Right to a fair trial

The right to a fair trial is a crucial guarantee in the protection of human rights and serves as a safeguard mechanism for the rule of law. The Universal Declaration of Human Rights states that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them.⁹³ Also, article 14 of ICCPR, states that all persons shall be equal before the courts and tribunals and that everyone shall be entitled to a

fair and public hearing by a competent, independent and impartial tribunal established by law, while determining any criminal charges against that person.

The right to a fair trial in its essence is non-derogable. In exceptional circumstances, some guarantees to the right to a fair trial may be subject to certain restrictions. For example, a hearing cannot be open to the public or the press if the court deems it necessary in service of justice, protection of personal privacy or national security. However, international law considers that principles of competence, impartiality, and independence of a tribunal are absolute guarantees that are not subject to any exceptions or restrictions.⁹⁴ Also, the HRC stresses that the guarantees to a fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights.⁹⁵

Article 14 sets out a general guarantee of equality before courts and tribunals regardless of the nature of such proceedings before such bodies.⁹⁶ This guarantee encompasses the right to equal access and equality of arms and ensures that the parties to the proceedings in question are treated without any discrimination.⁹⁷ This means that all parties should have the same procedural rights without distinctions, unless such distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant.⁹⁸

94. General comment no. 32: Article 14 (Right to equality before courts and tribunals and to a fair trial), United Nations. Human Rights Committee, 23 August 2007. CCPR/C/GC/32, para 19. available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRICAqhKb7yhsrdB0H1I5979OVGGB%2bWPAXhRj0XNTTVKgFHBxAcZ5vX-10sJj%2fjyRmVA4IIMvUt2NIGKqg2nh1qOE2hX5xGtKE2v2YSQV1Rv5NitNbSYwp>. Also see Article 7 of the ACHPR.

95. *Ibid.*, para 6.

96. *Ibid.*, para 3.

97. *Ibid.*, para 8.

98. *Ibid.*, para 13.

In other words, the guarantee of equality before courts and tribunals would be violated if, for instance, only the prosecutor is allowed to appeal a certain decision, but not the defendant.⁹⁹ Also, in paragraph two, the article establishes the general principle of the presumption of innocence where a person is charged with a criminal offence. This means that everyone who is accused of committing a crime should have the right to be presumed innocent until proven guilty according to the law.¹⁰⁰ Similarly, article 7 of the ACHPR states that every individual has the right to have his cause heard, which comprises the right to be presumed innocent until proven guilty by a competent court or tribunal.¹⁰¹

In addition, article 14 of ICCPR and article 7 of ACHPR sets out several procedural minimum guarantees to the right to a fair trial. Such as, informing any person who is charged, or yet to be charged,¹⁰² with a criminal offence, promptly and in detail of the nature and cause of the criminal charges that are brought against them.¹⁰³ Also, to be given adequate time and facilities to prepare their defence and to be able to communicate with a counsel of their own choosing.¹⁰⁴ This includes the right to access all documents and other evidence that the prosecution plans to offer in court.¹⁰⁵ Moreover, the article ensures the right of the accused to be tried without undue delay.¹⁰⁶

3. Torture and other cruel, inhuman or degrading treatment or punishment

International law has clearly prohibited all forms of torture and ill-treatment of all persons without exceptions. Article 5 of the Universal Declaration of Human Rights states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 5 of the ACHPR also states that “all forms of exploitation

and degradation of ‘man’, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.” Likewise, article 7 of the ICCPR stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The prohibition against torture and other cruel or inhuman treatment or punishment is absolute. Torture is impermissible regardless of the circumstances, including a state of emergency, war and in the context of combatting terrorism.¹⁰⁷

107. General comment no. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), United Nations. Human Rights Committee (HRC). 10 March 1992. CCPR/C/GC/20. para 3. available at: <https://www.refworld.org/docid/453883fb0.html>.

Torture is defined by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as:

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”¹⁰⁸

The Human Rights Committee regards that prolonged solitary confinement of a detained or imprisoned person may amount to torture. Yet, it did not set a specific period to define ‘prolonged solitary confinement.’¹⁰⁹ The Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, however, deems any period that exceeds 15 days in solitary confinement to be ‘prolonged.’¹¹⁰

Constitutional standards

Although it is considered more progressive than the constitution of 2012, the current Egyptian constitution¹¹¹ still falls short of Egypt's international human rights obligations.¹¹² Article 93 explicitly affirms the state's commitment to its international obligations, and that agreements and international covenants of human rights have the force of law once they have been ratified and published according to the relevant procedure.

Right to liberty, a fair trial, and protection against torture in Egypt's constitution

The 2014 Egyptian constitution provides several guarantees to protect the right to liberty, a fair trial, and protection against torture. Article 92 asserts a universal guarantee to all rights and freedoms of citizens, that may not be suspended or reduced, and that no law while it is regulating the exercise of rights and freedoms may restrict in such a way as to infringe upon their essence and foundation.

Article 51 of the Egyptian constitution stipulates that dignity is a right of every human being and it may not be infringed upon, and that the State shall respect and protect it. Also, article 52 not only prohibits all forms and types of torture, but also recognises it as a crime with no statute of limitations. However, article 126 of the Egyptian Penal Code provides a poor definition to torture that does not conform with international or constitutional standards.

Article 55 provides further guarantees for the protection of persons deprived of their freedom, stating that all those who are either apprehended, detained or have their freedom restricted shall be treated in a manner that maintains their dignity, and that they should not be tortured, intimidated, coerced, or physically or morally harmed. Also, the article prohibits detaining persons in unrecognised places of detection, and states that recognised places of detention should respect humanitarian and health standards, adding that it is a crime punishable by law to violate any of these guarantees. In

111. An English translation of the 2014 Egyptian Constitution can be found on: https://www.constituteproject.org/constitution/Egypt_2014.pdf.

112. Amnesty International. (2013). Egypt constitution draft – Improved text amid ongoing violations. Available at: <https://www.amnesty.org/download/Documents/16000/mde120762013en.pdf>.

addition, article 56 stipulates that prisons are places of rehabilitation, and that prisons and other places of detention should be subject to judiciary supervision, setting further prohibitions on actions inconsistent with human dignity or endangering human health.

Article 54 of the constitution stresses that personal freedom is a 'natural right' that shall be protected and may not be infringed upon. It ensures vital guarantees to the right of personal liberty; except for the case of being caught in *flagrante delicto*, the article requires a reasoned judicial order which should be necessitated by an investigation, to apprehend, search, detain, or enforce any type of restrictions on a person's freedom.

Similarly, article 58 requires a justified judicial warrant to enter, search, monitor or wiretap a house. Article 54 also provides further procedural guarantees to the right to personal freedom. It states that every person whose freedom is restricted shall be immediately notified of the reasons therefore, to be informed of their rights in writing, and to be enabled to immediately contact their family and lawyer and that they should be brought before the investigating authority within 24 hours from the time of their apprehension. Additionally, the article asserts that the questioning of the person may only begin in the presence of their lawyer, and that if a person has no lawyer, then a lawyer shall be appointed for this person.

Article 94 establishes a universal guarantee to the protection of rights and freedoms stating that the rule of law is the basis of governance in the country, and that the independence, immunity and impartiality of the judiciary are essential guarantees for the protection of rights and freedoms. Articles 96, 97, 98 set forth guarantees, specifically for the right to fair trial. Article 96 affirms

the principle of presumption of innocence in trials, the right to appeal judicial decisions and offers protection to victims, witnesses, accused and informants. Article 97 prohibits exceptional courts, while article 98 re-affirms the right to counsel.

Background on the targeting of HRDs since 2011

In July 2011, the Egyptian cabinet formed a fact-finding committee to investigate the foreign funding received by civil society groups. In December, Egyptian security forces and public prosecutors raided the offices of 17 national and international human rights and pro-democracy organisations in Egypt.¹¹³ The prosecutors investigated many staff members of the organisations inside their offices, while police forces searched through their papers, laptops and computers. Staff members of six organisations of the 17 targeted were warned against using their cell phones, laptops, and computers, and were prevented from contacting the outside world.¹¹⁴ This marked the beginning of the prolonged targeting of human rights organisations and their staff members through case no. 173/2011, commonly known as ‘foreign funding case.’¹¹⁵

Two years later, in July 2013, an Egyptian court sentenced 43 employees of the foreign NGOs that used to work in Egypt, to one

to five years in jail, and ordered the closure of five NGOs.¹¹⁶ In relation to case no. 173, other patterns of repression started to emerge since 2014. More than a dozen human rights defenders (HRDs), NGO directors, and founders were subjected to travel bans.¹¹⁷ Moreover, about six human rights NGOs and 14 HRDs were denied access to their bank accounts,¹¹⁸ also known as “asset freezes”.¹¹⁹

The developments in the political arena have also affected the human rights community. In 2012, Egyptians elected Mohamed Morsi of the Muslim brotherhood to be the first democratically-elected president following the January uprising.¹²⁰ His presidency however failed to bring stability, and his decisions failed to establish a democratic framework. His decisions sparked a new chapter in Egypt’s unrest, with renewed protests¹²¹ over his decision to remove the Public Prosecutor¹²² and the issuing of a presidential decree granting himself absolute powers.¹²³

Following a year of political turmoil, on 3 July 2013, then-army-chief, now-President Abdel Fattah al-Sisi declared Morsi’s removal

113. Ibid.

114. A legal measure that temporary ban individuals from international traveling due to ongoing investigations or a jail sentence.

115. Cairo Institute for Human Rights Studies. (2016). Egypt: Imminent Risk of Prosecution of HRDs accused of committing human rights work- Joint background info on Case No. 173 – the case against human rights NGOs - Cairo Institute for Human Rights Studies. Available at: <http://www.chrs.org/?p=19002&lang=en>.

116. Asset freeze is a temporary legal measure pending a final verdict from a court of law, where a person, corporation or organisation is prevented from accessing their money, or in some cases also property.

117. Kirkpatrick, D. (2012). Mohamed Morsi of Muslim Brotherhood Declared as Egypt’s President. The New York Times. Available at: <https://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html>.

118. Beaumont, P. (2012). Protests erupt across Egypt after presidential decree, the Guardian. Available at: <https://www.theguardian.com/world/2012/nov/23/protests-egypt-presidential-decree>.

119. Beaumont, P. (2012). Morsi ‘power grab’ angers Egypt opposition groups, the Guardian. Available at: <https://www.theguardian.com/world/2012/nov/23/morsi-power-grab-angers-opposition>.

120. BBC News. (2012). Mursi assumes sweeping new powers. Available at: <https://www.bbc.co.uk/news/world-middle-east-20451208>.

113. Egypt Independent. (2011). Prosecutors and security forces storm NGO offices - Egypt Independent. Available at: <https://egyptindependent.com/prosecutors-and-security-forces-storm-ngo-offices/>.

114. HRW. (2011). Egypt: National and International Human Rights Organisations are Under Attack. Available at: <https://www.hrw.org/news/2011/12/29/egypt-national-and-international-human-rights-organisations-are-under-attack>.

115. EIPR. (2016). Background on Case No. 173 - the “foreign funding case” | Egyptian Initiative for Personal Rights. Available at: <https://eipr.org/en/press/2016/03/background-case-no-173-%E2%80%9Cforeign-funding-case%E2%80%9D>.

of power, the suspension of the constitution and the formation of an interim government.¹²⁴ Despite the huge protests that swept the streets demanding the removal from power of President Morsi,¹²⁵ concerns about the country's stability and its struggling democracy mounted. The ousting of Morsi sparked counter-protests by Morsi supporters,¹²⁶ which were soon crushed by the government.¹²⁷ According to research by Human Rights Watch, at least 817 people were killed in clashes with security forces during protests,¹²⁸ thousands were arrested, tortured and forcibly disappeared for showing dissent to the government.¹²⁹

The human rights community played a pioneering role in disclosing the government's violations and demanding accountability over human rights gross violations, which put HRDs further at risk.

Since President al-Sisi seized power in 2014, the government has escalated its crackdown on critics, especially since 2016. In April 2016, Egypt and Saudi Arabia signed an agreement to specify maritime borders, in which the Egyptian government agreed to transfer sovereignty of two Red Sea islands to Saudi Arabia.¹³⁰ Thousands of Egyptians took to the streets to protest the agreement.¹³¹ In response, the government arrested hundreds of protestors, activists

and HRDs,¹³² including prominent labour activist and HRD, Haitham Mohamedeen,¹³³ two leading members of the Egyptian Commission for Rights and Freedoms (ECRF), Ahmed Abdulla¹³⁴ and Mina Thabet¹³⁵, and others. The targeting of HRDs continued with the arrest of a prominent woman human rights defender, Azza Soliman, the founder of the Center for Egyptian Women's Legal Assistance, in December 2016.¹³⁶

The country witnessed an even worse human rights crisis since al-Sisi's announcement to run for a second term.¹³⁷ Months before the 2018 presidential elections, Egyptian security tightened its grip over peaceful dissent, escalating its crackdown on al-Sisi's political opponents, journalists, HRDs and activists.¹³⁸ In September 2017, before the presidential elections, Khaled Ali, a prominent human rights lawyer and former presidential candidate, was sentenced to three months in prison over politically-motivated charges. Amnesty International considered the verdict illustrated "the government's ruthless determination to crush dissent to consolidate its power."¹³⁹ Later, in September 2018, the verdict was suspended for three years by the Court of Appeal.¹⁴⁰ However, it remains a clear sign of the government's zero-tolerance of any criticism. Since al-Sisi decided to

124. Hauslohner, A., Booth, W. and al-Hourani, S. (2013). Egyptian military ousts Morsi, suspends constitution. The Washington Post. Available at: https://www.washingtonpost.com/world/egypts-morsi-defiant-under-pressure-as-deadline-looms/2013/07/03/28fda81ce39d-11e2-80eb-3145e2994a55_story.html.

125. Kingsley, P. (2013). Protesters across Egypt call for Mohamed Morsi to go. the Guardian. Available at: <https://www.theguardian.com/world/2013/jun/30/mohamed-morsi-egypt-protests>.

126. BBC News. (2013). Timeline: Pro-Morsi protests. Available at: <https://www.bbc.co.uk/news/world-middle-east-23695421>.

127. Ibid.

128. All According to Plan: The Rab'a Massacre and Mass Killings of Protesters in Egypt. (2014). HRW. Available at: <https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt>.

129. Amnesty International. (2014). Egypt: Rampant torture, arbitrary arrests and detentions signal catastrophic decline in human rights one year after ousting of Morsi. Available at: <https://www.amnesty.org/en/latest/news/2014/07/egypt-anniversary-morsi-ousting/>.

130. Reuters. (2016). Saudi, Egypt draw up maritime borders. Available at: <https://www.reuters.com/article/us-egypt-saudi-idUSKCN0X6OUK>.

131. Janjevic, D. (2016). Egyptians rally against el-Sissi over land deal with Saudi Arabia. Deutsche Welle. Available at: <https://www.dw.com/en/egyptians-rally-against-el-sissi-over-land-deal-with-saudi-arabia/a-19192293>.

132. HRW. (2016). Egypt: Fearing Protests, Police Arrest Hundreds. Available at: <https://www.hrw.org/news/2016/04/27/egypt-fearing-protests-police-arrest-hundreds>.

133. Ibid.

134. Ahram Online. (2016). Human rights activist Ahmed Abdallah arrested: Egyptian Commission for Rights and Freedoms - Politics - Egypt. Available at: <http://english.ahram.org.eg/NewsContent/1/64/204399/Egypt/Politics-/Human-rights-activist-Ahmed-Abdallah-arrested-Egypt.aspx>.

135. Amnesty International. (2016). Egypt steps up vicious onslaught against NGOs with arrest of minority rights defender. Available at: <https://www.amnesty.org/en/press-releases/2016/05/egypt-steps-up-vicious-onslaught-against-ngos-with-arrest-of-minority-rights-defender/>.

136. Amnesty International. (2016). Egypt: Prominent women's rights activist arrested in worrying escalation. Available at: <https://www.amnesty.org/en/latest/news/2016/12/egypt-prominent-womens-rights-activist-arrested-in-worrying-escalation/>.

137. The situation has also been highlighted by 18 members of the British Parliament on March 2018: <https://edm.parliament.uk/early-day-motion/51531>.

138. More details is available at: <https://www.hrw.org/news/2018/02/26/egypt-arrests-escalate-ahead-unfair-elections>.

139. A copy of Amnesty's comment on the verdict is available at: <https://www.amnesty.org/en/latest/news/2017/09/egypt-former-presidential-candidate-given-jail-term-in-bid-to-stop-him-running-in-2018-election/>.

140. Mada Masr. (2018). Lawyer Khaled Ali's 3-month 'public indecency' sentence upheld. Available at: <https://madamasr.com/en/2018/09/19/news/u/khaled-alis-3-month-public-indecency-sentence-upheld/>.

run for a second turn, the country has been through its worst human rights crisis in decades. Egyptian security escalated its crackdown against civil society, political activists and any person who criticised the government.

In September 2018, 17 UN experts condemned the systematic targeting of HRDs, urging the Egyptian government to ensure that detained HRDs receive a fair and impartial trial in accordance with Egypt's obligations under international law.¹⁴¹ Moreover, in December 2018, the UN Special Rapporteur on the right to housing, Leilani Farha condemned the Egyptian authorities' reprisals against HRDs and individuals that she met during her official visit to the country. In the same statement, the UN Special Rapporteur on Human Rights Defenders, Michel Forst, mentioned that HRDs who helped the UN Special Rapporteur on the right to housing during her official visit to the country, were:

“followed and photographed by persons unknown to them, to have received anonymous and threatening phone calls, or have been summoned to report at police offices for interrogation. One lawyer with whom Ms. Farha met after the visit was subjected to a travel ban.”¹⁴²

The two experts concluded that Egypt is not ready to host further official UN expert visits, unless the Egyptian government ensures that HRDs and victims of human rights violations can safely interact with UN human rights envoys without fear of reprisals.¹⁴³ This highlights the extreme restrictions on the work of HRDs and the high level of risk encountered by them for simply doing their job and legitimately defending human rights in accordance with international law.

Furthermore, in September 2019, protests broke out in several governorates following social media calls that President Abdel Fattah al-Sisi should step down. This came after allegations of corruption and waste of public money were made by a former army contractor in a series of online videos.¹⁴⁴ In response, the Egyptian security forces have carried out sweeping arrests of peaceful protesters, journalists, human rights lawyers, activists and political figures in several governorates across the country. Local human rights organisations have reported arbitrary arrests of more than 4,300 people in 24 governorates between 20 September and late October 2019.¹⁴⁵ In an unprecedented escalation, security forces stopped hundreds of random people in the streets in the days after the protests and forcibly searched their phones, private correspondence and social media posts for any trace of political affiliation or anti-Sisi views.¹⁴⁶ Many pedestrians were arrested without having taken part in protests.

Moreover, security forces have arrested several prominent activists, journalists, human rights lawyers, university professors and party leaders, although most were not involved in the protests. Human rights organisations reported the arrest of prominent human rights lawyer and activist, Mahienour al-Massry on 22 September.¹⁴⁷ She was seized by men in plainclothes and bundled into a van while she was leaving the SSSP building where she went to represent a detainee.¹⁴⁸ Another prominent human rights lawyer, Mohamed el-Baqer was arrested at SSSP premises while representing prominent activist Alaa Abdel Fattah who had been arrested earlier that day at the end of his daily period of probational custody at a police station.¹⁴⁹ Both face charges of belonging to a terrorist group, funding a terrorist group, spreading false news, undermining national security and using social media to commit publishing offenses. In prison, both were ill-treated and assaulted; UN human rights experts have condemned the assaults:

“they were particularly alarmed by reports of physical and verbal abuse against three human rights defenders – Alaa Abdel Fattah, Mohamed El-Baqer and Esraa Abdel Fattah – who have been detained and charged. “We are gravely concerned about allegations that torture may have occurred during the detention of these three human rights defenders,” said the experts. “Those allegations must be thoroughly investigated by the authorities, and, if confirmed, those responsible must be held accountable.”¹⁵⁰

In October 2019, the European Parliament also denounced the most recent crackdown on HRDs in an urgency resolution.¹⁵¹ This was its second resolution on HRDs in Egypt in less than a year.¹⁵²

